IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

CRP.No. 394 of 2007(F)

REVN. PETITIONER: PLAINTIFF/DECREE HOLDER

M/S.CATHOLIC SYRIAN BANK LTD,
MAMMIYOOR BRANCH, TRISSUR REP.BY BRANCH MANAGER,
MAMMIYOOR BRANCH, THRISSUR.

BY ADV. SRI.C.A.JOY

RESPONDENTS: DEFENDANT/JUDGMENT DEBTOR:

MR.KHADAR, AGED 55 YEARS, TAILOR,
S/O.NALAKATH KUNJIMAMU, CHOONDAL VILLAGE,
THALAPPILLY TALUK.

BY ADV. SRI.RAJIT
SRI.RANJIT BABU

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 394 OF 2007

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Dated this the 26th day of June, 2007.

O R D E R

This revision petition is preferred against the order of the Subordinate Judge, Thrissur in I.A.7160/06 in O.S.154/03. The suit is one for realisation of the amount due from the defendant personally and by sale of the property which is given as equitable mortgage.

2. Respondent not represented. A perusal of the judgment would show at the stage of trial the defendant withdrew all his contentions but the Court instead of passing a charge decree only granted a personal decree. It is an error which has crept in and it is liable to be corrected under Section 152 of CPC. The learned Subordinate Judge has disallowed the prayer on the ground that Order 20 Rule 3 bars such a relief. From a reading of Order 20 Rule 3, it would reveal that judgment can be altered or corrected under Section 152 of CPC or on review. The learned Subordinate Judge has lost sight of that. Therefore, the order under challenge is set aside and the C.R.P. is allowed and the learned Subordinate Judge is directed to alter or amend the

judgment and decree as provided under Section 152 of CPC so as to enable the revision petitioner to get a decree with charge on the property.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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